

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 128-2004

A by-law to provide for the licensing, regulating and governing taxicab brokers, taxicab owners, limousine owners and drivers of motor vehicles used for hire, and for limiting the number of taxicab owner/broker licences

WHEREAS Section 150 of the *Municipal Act, S.O. 2001, c. 25*, Part IV, authorizes municipalities to license, regulate and govern any business wholly or partly carried on within the municipality;

AND WHEREAS this authority extends to taxicab and limousine businesses operating within the Town;

AND WHEREAS Section 150(2) of said Act provides that a municipality may only exercise its licensing powers for one or more of the following purposes:

1. Health and safety;
2. Nuisance control;
3. Consumer protection;

AND WHEREAS Section 155(1)(c) of said Act provides authority to limit the number of taxicabs operating within the Town;

AND WHEREAS the Council of The Corporation of the Town of Kingsville wishes to ensure that:

1. users of taxicabs and limousines are not subjected to harassment or unfair solicitation by owners and/or drivers of taxicabs and limousines;
2. taxicab and limousine businesses are operated in a consistent manner with an emphasis on public safety;
3. taxicabs and limousines are properly equipped and certified as meeting motor vehicle safety standards;
4. every owner and driver of a taxicab and/or limousine has adequate insurance in place at all times to protect users and members of the public from loss or damage arising from the operation of taxicabs and/or limousines;

AND WHEREAS the total amount of fees to be charged for licensing a class of business shall not exceed the costs directly related to the administration and enforcement of the by-law, in accordance with Section 150(9) of the *Municipal Act, S.O. 2001, c. 25*;

AND WHEREAS the types of allowable costs for licence fees are set out in Section 150(10) of the said Municipal Act, S.O. 2001, c. 25, and include the costs associated with preparation of the by-law, inspections related to the by-law, enforcement of the by-law against the person operating without a licence and/or permit, prosecution and court proceedings;

AND WHEREAS a public meeting for consideration of this by-law has been held and notice was given in accordance with Section 150(4) of the *Municipal Act, S.O. 2001, c. 25*.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

1. DEFINITIONS

For the purposes of this by-law:

"Clerk" shall mean the Clerk of The Corporation of the Town of Kingsville or a person designated by him or her for the purposes of this by-law;

"Council" shall mean the Council of The Corporation of the Town of Kingsville;

"Detachment Commander" shall mean the Detachment Commander of Kingsville OPP Detachment;

"Driver" shall mean an individual who has care and control of a Taxicab and/or Limousine;

"Licence" shall mean the Licence issued to an owner under the provisions of this by-law, to use or permit to use a Motor Vehicle for hire and shall include any renewal thereof;

"Licence Fee" shall mean the total amount charged for licensing a class of business which shall not exceed the costs directly related to the administration and enforcement of the by-law or portion of the by-law;

"Limousine" shall mean any Motor Vehicle having an enclosed passenger area designed to separate the driver from the passengers, a wheelbase of not more than 2900 millimeters, and a manufacturer's rated seating capacity of more than six persons;

"Motor Vehicle" shall mean an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road building machine, as defined in the *Highway Traffic Act*, R.S. 0. 1990, c. H 8;

"Owner" shall mean any Person having any interest in any Motor Vehicle used for hire, and/or the custody and control thereof;

"Permit" shall mean a permit to drive and/or operate a Motor Vehicle used for hire, issued under the provisions of this by-law;

"Permit Fee" shall mean the total amount charged for a Driver's Permit;

"Person" shall mean any Person, firm or corporation, or any group or association of Persons;

"Taxicab" shall mean a Motor Vehicle other than a car pool vehicle, having a seating capacity of not more than six Persons, exclusive of the driver, hired for one specific trip for the transportation exclusively of one Person or group of Persons, one fare or charge only being collected or made for the trip, as defined in the *Public Vehicles Act*, R.S. 0. 1990, c. P. 54;

"Taxi Broker" shall mean any Person who accepts calls in any manner for Taxicabs that are used for hire and that are owned by Persons other than himself or herself, his or her immediate family or his or her employer;

"Taxi Stand" shall mean a public place alongside the curb of a street or elsewhere in the Town which has been designated by the Town for the use of Taxicabs, in accordance with the Town Zoning Bylaw in the C 1 Commercial zone;

"Town" shall mean The Corporation of the Town of Kingsville.

2. PURPOSE OF THE BY-LAW

The purpose of this by-law is to exercise the power to license, regulate and govern the Taxicab and Limousine businesses in the Town and includes the power to:

- a) prohibit the carrying on or engaging in the business without a Licence and/or Permit;
- b) refuse to grant a Licence and/or Permit or to revoke or suspend a Licence and/or Permit;

- c) fix the expiry date for a Licence and/or Permit;
- d) define classes of businesses and to separately license, regulate and govern each class;
- e) impose conditions as a requirement of obtaining, continuing to hold or renewing a Licence and/or Permit, including:
 - (i) requiring the payment of Licence and/or Permit fees;
 - (ii) regulating the hours of operation of the business;
 - (iii) allowing at any reasonable time, the Town to inspect the places and premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying on of the business;
 - (iv) imposing special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a Licence and/or Permit;
 - (v) imposing conditions, including special conditions, as a requirement of continuing to hold a Licence and/or Permit at any time during the term of the Licence and/or Permit;
 - (vi) licensing, regulating or governing the place or premises used for the business and the persons carrying it on or engaged in it;
 - (vii) regulating or governing the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on or engaging in the business; and
 - (viii) exempting any business or Person from all or any part of the by-law.

3. SCOPE

- a) This by-law shall apply to Taxicab Owners/Brokers, Limousine Owners, and Drivers of Taxicabs and Limousines, which Motor Vehicles are kept or used for hire in the Town of Kingsville.
- b) No Person shall be required to be licensed under the provisions of this by-law for the operation of an ambulance or a funeral hearse.
- c) The applicable provisions of this by-law apply to any Person who owns or is operating a 'Taxicab" or a "Limousine" of any type, or acting as a Taxicab Broker defined in this by-law.

4. RESPONSIBILITIES

4.1 The Clerk shall:

- a) be responsible for the Issuance of Licences and/or Permits pursuant to this bylaw;
- b) accept applications for Licences and/or Permits required by this by-law;
- c) provide a copy of this by-law to each applicant for a Licence and/or Permit under the provisions of this by-law;
- d) maintain a record of all Licences and/or Permits issued including the name and address of each licensee and/or Driver and the number of Taxicab and/or Limousines owned by each licensee;
- e) maintain a record of each Motor Vehicle licensed hereunder including the make, model, year, serial number, the Provincial licence plate number, the Taxicab and/or Limousine Owner Licence and the date of the issuance of each Licence;
- f) upon receipt of an application for the grant of a Licence and/or Permit pursuant to this by-law, make or cause to be made all investigations that he or she deems necessary;
- g) upon receipt of an application and the appropriate Licence and/or Permit Fee, forthwith forward details of the application to the Detachment Commander.

4.2 The Detachment Commander shall:

- a) make all necessary enquiries and examine all applications for Taxicab Owner/Broker Licenses and/or Driver Permits and Limousine Owner Licences and/or Driver Permits;
- b) make all necessary enquiries in connection with a recommended issuance, suspension or revocation of Licences and/or Permits, pursuant to this by-law;
- c) and determine whether or not the applicant, or all persons comprising the applicant, has any fines and/or payments outstanding or convictions under the *Criminal Code (Canada)* or the *Controlled Drugs and Substances Act, 1996*; and/or the *Highway Traffic Act, R.S.O. 1990. c.H8*; within the past 2 years from the date of application;
- d) and report his or her findings to the Clerk.

5. APPLICATION PROCEDURES

5.1 Every applicant for a Taxicab Owner's/Taxicab Broker's or Limousine Owner's Licence and/or Driver's Permit shall attend the municipal offices to make application for such Licence and/or Permit.

5.2 An application for any Licence and/or Permit hereunder shall be in a form provided for the purpose by the Town, shall be addressed to the Town in care of the Clerk, and shall require the following:

- a) two (2) original photographs of the Taxicab and/or Limousine Driver to be submitted as part of the prescribed application with one (1) photograph to be attached to the Permit, if granted and the other filed with the Sergeant;
- b) all applicants must be at least 18 years of age or older and provide proof of either Canadian citizenship or Landed Immigrant status in Canada;
- c) every Owner of more than one (1) Taxicab and/or Limousine for the conveyance of passengers required to be licensed under this by-law, shall make separate application for a Licence for each additional Taxicab and/or Limousine;
- d) the Owner shall provide proof of the motor vehicle safety standards certificate issued by the Ministry of Transportation under the provisions of the *Ontario Highway Traffic Act, R.S. 0. 1990, c. H 8* as part of the application and upon the renewal of each Licence;
- e) every applicant for a Licence and/or Permit shall provide, at the time of application and maintain as long as the Licence and/or Permit is/are in effect liability insurance, or a bond or other security specifically approved by the Town in the amount of not less than \$2,000,000.00. The insurance policy may not be cancelled by the insurer until after ten (10) days written notice of such cancellation is given to the Clerk. The said insurance or a certificate thereof shall be retained by the Town while the Licence and/or Permit are current;
- f) proof to the satisfaction of the Clerk that the premises from which the Taxicab Owner/Broker and/or Limousine Owner intends to operate a business and/or carry on the business thereof are situated within the limits of the Town and will continue to be so situated throughout for the term of the Licence and renewals thereof and such place of business conforms with the current zoning regulations of the Town.

5.3 The Clerk shall issue the Licence and/or Permit only where;

- a) all the information which the applicant is required to provide under Section 5.2 has been provided, and verified;
- b) all the documents which the applicant is required to provide have been provided;
- c) the License and/or Permit fee is paid; and
- d) the Detachment Commander recommends the issuing of the Licence and/or Permit after taking into consideration the information contained in 4.2(c).

6. LICENCE FEE

The initial Licence Fee for a Taxicab Owner/Taxicab Broker and Limousine Owner shall be \$300.00. The annual Licence renewal Fee for a Taxicab Owner/Taxicab Broker and/or Limousine Owner shall be \$100.00. All Fees are payable to the Town and shall be valid for the calendar year in which they are paid. The Taxicab Owner/Taxicab Broker and/or Limousine Owner is required to procure such Licence and/or renewal not later than January 1st of each year.

7. PERMIT FEE

The annual Driver's Permit Fee is \$25.00 payable to the Town and shall be valid for the calendar year in which it was issued. Each Driver shall renew such Permit not later than January 15th of each year.

8. LICENCE AND PERMIT RENEWALS

The Owner's/Broker's Licences and Driver's Permits issued under this by-law, shall be for the current year, and expire on the 31st day of December of each year. Each applicant is required to complete a new application at the beginning of each calendar year with all the supporting documents for processing as set out in Section 6 of this by-law.

9. GROUNDS FOR REFUSAL, SUSPENSION, OR REVOCATION OF A LICENCE AND/OR PERMIT

The Municipality shall have the authority and discretion to refuse, suspend or revoke any Licence and/or Permit applied for or issued, pursuant to the provisions of this by-law for anyone or more of the following reasons:

- a) incomplete Licence and/or Permit application(s);
- b) reasonable grounds to believe that statements on the Licence and/or Permit application are false;
- c) the applicant does not meet one or more of the Licence and/or Permit provisions of this by-law;
- d) the applicant has outstanding fines or is in contravention of this by-law and/or has not paid the required Licence and/or Permit application fees and/or renewal fees;
- e) the applicant has failed to obtain and maintain adequate Insurance;
- f) past behaviour or conduct of the applicant, Driver and/or Owner creates reasonable grounds to believe that the applicant may not carry on the business with honesty and integrity;
- g) the applicant has breached or is in breach of the Code of Conduct as set out in this by-law.

10. RETURN OF THE LICENCE AND/OR PERMIT

Where a Licence and/or Permit has been revoked, the Owner/Broker and Driver shall return the Licence and/or Permit to the Clerk forthwith upon receipt of notice from the Town.

11. GENERAL PROHIBITIONS

- 11.1 No Person shall operate a Taxicab and/or Limousine or act as a Taxicab Broker within the territorial jurisdiction of the Town unless that person is in possession of a valid Permit and/or Licence issued under this by-law. This prohibition shall not apply to Taxicabs and/or Limousines transporting passengers to Kingsville from outside the geographic limits of the Town unless the Taxicab and/or Limousine Driver picks up a passenger or fare in Kingsville for transportation to another destination either inside or outside of the geographic limits of the Town.

11.2 No Person shall use for hire or permit to be used for hire, within the territorial jurisdiction of the Town, a Taxicab and/or Limousine of which he/she is the registered Owner unless that person is a Taxicab and/or Limousine Owner licensed in respect of that Motor Vehicle.

12. CODE OF CONDUCT

12.1 No Owner and/or Driver licensed under this by-law shall solicit any Person to take or use his Taxicab and/or Limousine but the Person wishing to use or engage such Taxicab and/or Limousine shall be left to choose freely without interruption or solicitation.

12.2 No Owner and/or Driver licensed under this by-law shall without reasonable excuse, refuse to serve the first Person requiring the service of the Taxicab and/or Limousine at any place within the Town, at any time.

12.3 No Owner and/or Driver licensed under this by-law shall induce any Person to employ him/her by knowingly misleading or deceiving such Person as to the location or distance from any part of the Town, of any railway station, hotel, public place, or private residence, nor shall he/her induce any Person to employ his or her Taxicab and/or Limousine by any false representation.

13. DISPLAY OF THE LICENCE AND/OR PERMIT AND RATES

13.1 The Taxicab and/or Limousine Licence and/or Driver's Permit shall be posted in each Taxicab and/or Limousine in clear view of the passenger(s).

13.2 The Taxicab and/or Limousine company's rates shall be posted in each Taxicab and/or Limousine at all times and in clear view of the passenger(s).

14. CHANGE OF INFORMATION

Any Owner and/or Driver licensed or in possession of a Licence and/or Permit issued under this by-law shall communicate in writing in advance of any change in address, personal information and vehicular information to the Town and require an updated Licence and/or Permit.

15. LIMITATION

15.1 A limitation is imposed on the issuance of Taxicab Owner/Taxicab Broker Licences in the Town of Kingsville at a ratio of (1) Licence for each 5,000 residents of the Municipality.

15.2 The number of Taxicab Owner/ Taxicab Broker Licences shall be determined by the Clerk every three years when the official population statistics are provided by the Municipal Property Assessment Corporation during the year of a regular municipal election; and that when such a determination reveals that additional Licences may be issued based on the ratio of (1) Licence for every 5,000 residents of the Town, such additional Licences may be issued by the Clerk.

16. PENALTY CLAUSE

Every Person who contravenes any provision of this by-law is guilty of an offence and upon conviction shall be liable to a fine in the amount to be determined pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

17. VALIDITY CLAUSE

If any court of competent jurisdiction finds that any of the provision(s) of this by-law are ultra vires the jurisdiction of the Town or are invalid for any reason such provision(s) shall be deemed to be severable and shall not invalidate any other provision(s) of the by-law, which shall remain in full force and effect.

18. REPEAL CLAUSE

Any by-laws inconsistent with this by-law be and the same are hereby repealed.

READ A FIRST AND SECOND TIME THIS 13TH DAY OF DECEMBER, 2004.

READ A THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF DECEMBER, 2004.

MAYOR, Nelson Santos

CLERK, Linda Burling